

**Introduced by Senator Machado**

February 17, 2005

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An act to amend Section 8670.12.2 of the Government Code, relating to harbors and navigation.

LEGISLATIVE COUNSEL'S DIGEST

SB 403, as introduced, Machado. Harbors and navigation: tugboat escorts.

(1) Existing law, the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, requires the administrator for oil spill response to adopt regulations governing tugboat escorts for tank ships and tank barges entering, leaving, or navigating in the harbors of the state, to ensure the best achievable protection of the public health and safety and the environment. A knowing violation of a regulation adopted under the act is a crime. The act requires the administrator to establish harbor safety committees for specified harbors of the state.

This bill would require the administrator, in consultation with those harbor safety committees, to adopt regulations governing tugboat escorts for other vessels, as defined, that are entering, leaving, or navigating in the harbors of the state, and carrying hazardous material, as defined, in a sufficient quantity that a release of the hazardous material into the waters of the state or the atmosphere, as specified, would pose a risk to public health and safety or to the environment. The bill would authorize the administrator to exempt a vessel with a double hull, as defined, if the vessel meets other specified requirements, and to exempt a vessel already subject to specified tugboat escort requirements. This bill would require the administrator to charge the owner or operator of a vessel subject to the regulations a reasonable fee in an amount that does not exceed the administrator's costs for implementing the regulations. Because a knowing violation

of the regulations would be a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 8670.17.2 of the Government Code is  
2 amended to read:

3 8670.17.2. (a) The administrator shall adopt regulations  
4 governing tugboat escorts for tank ships and tank barges  
5 entering, leaving, or navigating in the harbors of the state. The  
6 regulations shall be adopted, and thereafter periodically revised,  
7 to ensure the best achievable protection of the public health and  
8 safety and the environment.

9 (b) (1) *The administrator, in consultation with the harbor*  
10 *safety committees established pursuant to Section 8670.23, shall*  
11 *adopt regulations governing tugboat escorts for other vessels*  
12 *that are entering, leaving, or navigating in the harbors of the*  
13 *state, and are carrying hazardous material in a sufficient*  
14 *quantity that a release of the hazardous material into the waters*  
15 *of the state or the atmosphere, as a result of a vessel collision, a*  
16 *vessel running aground, or a terrorist or other criminal act,*  
17 *would pose a risk to public health and safety, or to the*  
18 *environment.*

19 (2) *The administrator may exempt both of the following from*  
20 *the regulations adopted pursuant to paragraph (1):*

21 (A) *A vessel with a double hull that has fully redundant*  
22 *steering and propulsion systems and an integrated navigation*  
23 *system.*

24 (B) *A vessel already subject to tugboat escort requirements*  
25 *pursuant to existing United States Coast Guard regulations and*  
26 *requirements.*

1     (3) *The administrator shall charge the owner or operator of a*  
2 *vessel that is subject to the regulations adopted under paragraph*  
3 *(1) a reasonable fee in an amount that does not exceed the*  
4 *administrator's costs for implementing the regulations.*

5     (4) *Funds deposited in the Oil Spill Prevention and*  
6 *Administration Fund from the fee imposed pursuant to Section*  
7 *8670.40 shall not be used to support or implement this*  
8 *subdivision.*

9     (5) *As used in this subdivision, the following terms have the*  
10 *following meanings:*

11     (A) *"Double hull" has the meaning set forth in Section 157.03*  
12 *of Title 33 of the Code of Federal Regulations.*

13     (B) *"Hazardous material" is defined as anhydrous ammonia*  
14 *and ammonium nitrate. The administrator may consult with the*  
15 *Department of Toxic Substances Control to determine whether*  
16 *other explosive material, poisonous material, or poisonous gas*  
17 *listed in Section 66261.111 of Title 22 of the California Code of*  
18 *Regulations, is also a hazardous material for purposes of*  
19 *regulations adopted under paragraph (1).*

20     (c) *The regulations adopted pursuant to subdivision (a) shall*  
21 *include, but not be limited to, a determination of the*  
22 *circumstances under which tank ships and tank barges are*  
23 *required to be accompanied by a tugboat or tugboats of sufficient*  
24 *size, horsepower, and pull capability while entering, leaving, or*  
25 *navigating in the harbors of the state. In making that*  
26 *determination, the administrator shall be guided by the*  
27 *recommendations of the harbor safety committees established*  
28 *pursuant to Section 8670.23.*

29     ~~(e)–~~

30     (d) *The administrator may adopt regulations pursuant to*  
31 *subdivision (a) that differ from the recommendations of the*  
32 *harbor safety committees only after a public hearing. If the*  
33 *administrator proposes to adopt regulations that require the use of*  
34 *tugboat escorts in fewer instances in the harbors of San*  
35 *Francisco, San Pablo, and Suisun Bays than that which is*  
36 *recommended by the Harbor Safety Committee for San*  
37 *Francisco, San Pablo, and Suisun Bays, the administrator shall, in*  
38 *a public hearing, adopt findings, based on substantial evidence,*  
39 *that the proposed regulations provide adequate protection and are*  
40 *consistent with the purposes of this chapter.*

1     ~~(d)~~—

2     ~~(e)~~ A public hearing held in accordance with Section 11346.8  
3     ~~shall satisfy~~ *satisfies* the public hearing requirement of  
4     subdivision ~~(e)~~ *(d)*.

5     ~~(e)~~—

6     ~~(f)~~ The Legislature hereby finds and declares that the  
7     appropriate use of tugboat escorts can improve vessel safety,  
8     particularly in the harbors of San Francisco, San Pablo, and  
9     Suisun Bays, and that the regulations concerning tugboat escorts  
10    in those harbors shall be adopted as quickly as practicable and  
11    may be adopted before the adoption of all other regulations  
12    required by this section.

13    SEC. 2. No reimbursement is required by this act pursuant to  
14    Section 6 of Article XIII B of the California Constitution because  
15    the only costs that may be incurred by a local agency or school  
16    district will be incurred because this act creates a new crime or  
17    infraction, eliminates a crime or infraction, or changes the  
18    penalty for a crime or infraction, within the meaning of Section  
19    17556 of the Government Code, or changes the definition of a  
20    crime within the meaning of Section 6 of Article XIII B of the  
21    California Constitution.